

**DURHAM, NORTH CAROLINA  
TUESDAY, FEBRUARY 18, 2003  
7:00 P.M.**

The Durham City Council reconvened its regular meeting on the above date and time in the Council Chambers with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested Consent Agenda Item 17 [Kerrwood Phase II – Single Family Homeownership Project] be held until the March 3, 2003 City Council Meeting, provided additional information for Consent Agenda Items 15 [Resolution Setting Technology Surcharges and Fees for City-County Planning and City-County Inspections Departments] and 33 [Amendment to Lease Agreement--City of Durham/AT&T Wireless Services, Inc., d/b/a AT&T Wireless Services] and relative to Consent Agenda Item 9 [Demolition of Woolworth Building], she noted an informational agenda item regarding this project will be discussed at the February 20, 2003 City Council Work Session.

There were no priority items from the City Attorney.

Relative to GBA Item 28 [Rezoning Case P02-31—Lexington Park], City Clerk Gray informed Council that a valid protest petition has been filed against this rezoning.

Council Member Clement congratulated County Commissioner Joe Bowser for being elected President of the Durham Branch NAACP.

Council Member Cole-McFadden thanked the City Manager and Housing staff for their efforts regarding the Barnes Avenue demolition project.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 15 [Resolution Setting Technology Surcharges and Fees for City-County Planning and City-County Inspections Departments], 17[Kerrwood Phase II – Single Family Homeownership Project], 20 [Non-City Agency Guidelines Process], 33 [Amendment to Lease Agreement--City of Durham/AT&T Wireless Services, Inc., d/b/a AT&T Wireless Services], and 38 [Minority/Women Business Enterprise Advisory Committee] were pulled.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the City Council minutes for the following meetings was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

December 9, 2002 - Special Meeting

December 16, 2002 - Special Meeting

January 21, 2003 - Special Meeting

January 21, 2003 - Regular Meeting

**SUBJECT: AUDIT COMMITTEE REPORTS - CONTRACT COMPLIANCE AND INVENTORY AUDIT**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept the Contract Compliance Audit Report and the Inventory Audit Report from the Audit Committee was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN - WASHINGTON DUKE INN EXPANSION (CASE D02-530)**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan for a proposed 124,234 square foot expansion to an existing 120,351 square foot, five story hotel and conference center with 457 motor vehicle parking spaces and 23 bicycle parking spaces on a +/-22 acre site, zoned O&I-2 and R-10 was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: SET PUBLIC HEARING - STREET CLOSING – DELANO STREET (SC02-11)**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to set a public hearing for March 3, 2003, to receive public comment and consider permanently closing 577.95 +\_ linear feet (35,350 +\_ square feet) of Delano Street was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: SET PUBLIC HEARING – STREET CLOSING – HANSON ROAD (SC02-10)**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to set a public hearing for March 3, 2003, to receive public comment and consider closing 85.0 +/- linear feet (6,515 square feet) of Hanson Road was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: RECOMMENDATION TO IMPLEMENT CONSERVATION RATE STRUCTURE FOR IRRIGATION METERED WATER**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance amending Section 23-41 of the City Code to establish a conservation rate of \$2.34/ccf for inside-City water-only irrigation accounts and \$4.68/ccf for outside-City water-only irrigation accounts, effective April 1, 2003 was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12755**

**SUBJECT: ORDINANCE ESTABLISHING FAIR HOUSING COMPLIANCE GRANT FUNDING**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the HUD Fair Housing Grant Project Ordinance in the amount of \$148,300 for the period of October 1, 2001 until expended was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12756**

**SUBJECT: THE DEMOLITION OF THE WOOLWORTH BUILDING LOCATED AT 119 WEST PARRISH STREET AND 124 WEST MAIN STREET - D.H. GRIFFIN WRECKING COMPANY, INC.**

To authorize the City Manager to enter into a set price, all-inclusive contract with D.H. Griffin Wrecking Company, Inc. in the sum of \$800,000 for the controlled demolition, environmental management, transport and debris disposal of the Woolworth Building according to the bid specifications dated April 2, 2002; and

To adopt an ordinance amending General Capitol Improvement Ordinance, as amended, the same being ordinance number 12587; and

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To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract; and

To direct the administration to provide Council with a copy of the draft RFP.

*This item was voted on at the 2-6-03 work session and passed with a vote of 5-1. Noes: Council Member Best. Ordinance #12754*

**SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING AN IMPROVEMENT UNDER ENABLING ACT AUTHORITY - WATER MAIN ON GATEWOOD DRIVE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution setting a public hearing for March 3, 2003 to consider ordering the following improvement: Water Main on Gatewood Drive - From Cassandra Drive to South Property Line Tax Map 824-04-05 was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER PETITIONED IMPROVEMENT - WATER MAIN ON RIDGEVIEW ROAD**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept a certificate of sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for March 3, 2003 to consider ordering the following improvement: Water Main on Ridgeview Road - From Milton Road To and Including Tax Map 865-1-7 was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: STREET ACCEPTANCE - WELLINGTON FOREST, PHASE II AND LYNN HOLLOW**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept certain streets in Wellington Forest, Phase II and Lynn Hollow, as listed, for maintenance by the City of Durham was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Wellington Forest, Phase II**

1. Wellingham Drive – from the beginning of Phase II construction @ STA 24+25 west to the centerline of Scotney Circle (695'), and

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2. Scotney Circle – from the north curb line of Herndon Road north thru the cul-de-sac (440’), and
3. Basil Drive – from the centerline of Wellingham Drive north to the end of Ph. II @ STA 5+40 (540’), and
4. Upton Court – from the centerline of Basil Drive northwest thru the cul-de-sac (329’.)

**Lynn Hollow**

1. Stennis Way – from the south ditch line of Gibson Road south to the centerline of Forrestal Drive (381’), and
2. Kitty Hawk Court – from the centerline of Stennis Way west thru the cul-de-sac (193’), and
3. Forrestal Drive – from just east of Stennis Way west to the end of Phase I construction (370’.)

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT REDUCTION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance authorizing a speed limit of 25 mph for the following street segments was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

- a) On Eagle View Drive from NC 751 to Morrell Lane;
- b) On MacKenzie Court from Eagle View Drive to Buck Crossing Drive;
- c) On Crenshaw Lane from Eagle View Drive to Morrell Lane;
- d) On Chatsworth Way from Eagle View Drive to Morrell Lane;
- e) On Somerdale Drive from Eagle View Drive to Morrell Lane;
- f) On Crichton Lane from Eagle View Drive to end of city maintenance;
- g) On Morrell Lane from MacKenzie Court to Eagle View Drive;
- h) On Dixon Road from University Drive to Archdale Drive; and
- i) On Weatherby Drive from Clayton Road to Maymount Drive.

**Ordinance #12757**

**SUBJECT: ON-STREET PARKING ORDINANCE – W. MARKHAM AVENUE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance prohibiting parking on the north side of W. Markham Avenue in the area beginning at a point 117 feet east of the east curb line of Sedgefield Street, if extended, and extending for a distance of 60 feet eastward was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12758**

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**SUBJECT: HUCKLEBERRY RESERVOIR IMPROVEMENTS - SEASIDE UTILITIES, INC. – CONTRACT 1 (GENERAL CONSTRUCTION)**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Seaside Utilities, Inc. for Contract 1 - General Construction, Huckleberry Reservoir Improvements in the amount of \$510,350; and

To authorize the City Manager to negotiate and execute any necessary change orders encountered during the construction of the Huckleberry Reservoir Improvements provided the total cost of the project does not exceed the project amount of \$546,074 was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: AWARDING SERVICE SIDE ARMS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution authorizing the Chief of Police to award service side arms to surviving family members of deceased officers and to retiring officers was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8961**

**SUBJECT: CONTRACT SW-10 MAIN STREET AND MOREHEAD AVENUE SIDEWALKS - WHITE OAK CONSTRUCTION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with White Oak Construction for Contract SW-10 in the amount of \$138,364; and

To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: RECOMMENDATION TO IMPLEMENT CONSERVATION RATE STRUCTURE FOR IRRIGATION METERED WATER**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on the recommendation to implement conservation rate structure for irrigation metered water was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: RESPONSE TO THE POLICE BENEVOLENT ASSOCIATION REQUEST  
ON GRIEVANCE AND INTERNAL AFFAIRS PROCEDURES**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on the Grievance and Internal Affairs Procedures was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: WORKFLOW AUTOMATION ("ONE-STOP SHOP")**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a presentation on the Workflow Automation Initiative ("One-Stop Shop") was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DOWNTOWN DURHAM, INC.**

To approve sale of alcohol at the Durham Alive music festival for 2003.

*This item was moved to the 2-20-03 Work Session.*

**SUBJECT: BOB NOVAK**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to discuss 102 Mickey Circle about sewer line and water line connection was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: UPDATE FROM CITY STAFF ON THE MERCHANTS AT PHOENIX  
CROSSING SHOPPING CENTER – ZURI AND ASSOCIATES**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to send a letter regarding correction of the deficiencies within sixty days; and

To authorize the City Attorney's Office to send a notice of failure to perform under the loan agreement to Zuri and Associates should Administration determine that Zuri and Associates has not satisfactorily corrected the deficiencies within the specified time frames provided in the agenda item memorandum was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: LAKEWOOD PARK – NATIONAL REGISTER OF HISTORIC PLACES**

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To authorize the Mayor, as Chief Elected Officer, to sign the statement nominating the Lakewood Park Neighborhood to the National Register of Historic Places.

*This item was voted on and passed at the 2-06-03 work session with a vote of 6-0.*

**SUBJECT: TUB GRINDING AND DISPOSAL SERVICES 2003 - TRIANGLE GRADING & PAVING, INCORPORATED**

To authorize the City Manager to execute a contract with Triangle Grading & Paving, Incorporated in the amount of \$1,239,000 for Tub Grinding and Disposal Services [subject to receiving the completed compliance report and report being satisfactory]; and

To make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract.

*This item was voted on and passed at the 2-06-03 work session with a vote of 6-0.*

**SUBJECT: SMALL BUSINESS LOAN UPDATE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive an update report on the small business loan program was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: MINORITY/WOMEN BUSINESS ENTERPRISE ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS**

*This item was removed from the agenda.*

**SUBJECT: NORTH CAROLINA LEAGUE OF MUNICIPALITIES (NCLM) – LEGISLATIVE AGENDA**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on the North Carolina League of Municipalities' legislative agenda was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM HOUSING AUTHORITY SUBSIDY REDUCTION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive notice from the Housing Authority regarding subsidy reduction; and



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To authorize the Mayor to send a letter to HUD Secretary Mel Martinez, Congressional representatives [Price, Dole and Edwards] with a copy to Durham Housing Authority Director James Tabron expressing concern regarding HUD's recent decision to cut public housing subsidies by 30 percent was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: WILCO-HESS - CYNTHIA SHERLIN**

Council Member Clement requested a copy of letter sent by the Mayor to the President of Wilco-Hess be forwarded to Cynthia Sherlin.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive information regarding Wilco-Hess and Cynthia Sherlin was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: RESOLUTION SETTING TECHNOLOGY SURCHARGES AND FEES  
FOR CITY-COUNTY PLANNING AND CITY-COUNTY INSPECTIONS  
DEPARTMENTS**

To adopt the fee resolution establishing a 4% Technology surcharge to be added to every permit and application from the City-County Inspections Department and the City-County Planning Department, as well as cost-recovery based higher fees for major site plan reviews, and recovery of the higher costs for public hearing notification.

Council Member Stith requested a 5-year sunset provision be added to the resolution from date of adoption.

Council Member Best spoke in opposition to this item.

**MOTION** by Council Member Stith seconded by Mayor Pro Tempore Cheek to adopt the fee resolution establishing a 4% Technology surcharge to be added to every permit and application from the City-County Inspections Department and the City-County Planning Department, as well as cost-recovery based higher fees for major site plan reviews, and recovery of the higher costs for public hearing notification [to include a 5-year sunset provision from date of adoption] was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden, Edwards and Stith. Noes: Council Member Best. Absent: None.

**Resolution #8960**

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**SUBJECT: KERRWOOD PHASE II - SINGLE FAMILY HOMEOWNERSHIP PROJECT - \$1,100,000 - HOUSING BOND FUNDS - DEVELOPMENT VENTURES, INCORPORATED**

To execute a Construction Loan Agreement with Development Ventures, Incorporated in an amount not to exceed \$1,100,000 from Housing Bond funds, \$700,000 of which is to be generated through loan repayments; and

To execute related loan closing documents; and

To make minor changes to the Construction Loan Agreement and other related loan closing documents as are consistent with the loan terms, the Housing Bond Program requirements approved by City Council, and the general intent of the documents as approved by City Council.

City Manager Conner requested this item be held until the March 3, 2003 City Council Meeting.

**SUBJECT: NON-CITY AGENCY GUIDELINES PROCESS**

Council Member Best requested the administration to look at non-city agencies receiving funding when functions can be performed in-house, organizations receiving seed money that become self-sufficient still receiving funding; and those that show no progress on established goals when moving forward in this process.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Best to receive a report on the Non-City Agency Guidelines Process was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF DURHAM AND AT&T WIRELESS SERVICES, INC., D/B/A AT&T WIRELESS SERVICES**

Mayor Pro Tempore Cheek made comments about the increase in lease amount and antennas.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Amendment to the Lease Agreement between the City of Durham and AT&T Wireless Services, Inc., d/b/a AT&T Wireless Services, and

To authorize the City Manager to execute the Amendment to the Lease Agreement; and

To authorize the City Manager to make changes to the amendment provided they do not change the intent and purpose of the amendment was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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At this time during the meeting, discussion was held on GBA #24 [Rezoning Matter – Downtown Design Overlay District].

**SUBJECT: REZONING – DOWNTOWN DESIGN OVERLAY DISTRICT (CASE P02-62) – CITY OF DURHAM – SOUTH OF TRINITY AVENUE, WEST OF BUCHANAN STREET, NORTH OF NC 147, AND EAST OF ELIZABETH STREET**

To receive public comment on rezoning Case P02-62 (Downtown Design Overlay District); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by applying an overlay district on the described property in the downtown vicinity.

Zoning Committee Recommends Approval (6-0)  
Planning Department Recommends Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing.

Denny Clark, of 539 Foster Street, spoke in support of this request.

John Compton, representing Historic Preservation Society of Durham, spoke in favor of this item.

James Bradford, of 1917 Washington Street, noted in some cases, the new zoning is decreasing the units per acre.

City/County Planning Director Frank Duke noted ordinance includes provisions where Council would have the ability to approve a greater number of units than would normally be permitted. He noted Mr. Bradford has several properties that are zoned RM-20 that have already been approved by Council with a density greater than would normally be permitted and that prior approval should suffice for that increase that Council is able to do. There would be no decrease in the permitted density on the parcels zoned RM-20 as a result of this ordinance change.

Mayor Bell declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive public comment on rezoning Case P02-62 (Downtown Design Overlay District); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by applying an overlay district on the described property in the downtown vicinity was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**[GENERAL BUSINESS AGENDA]**

**SUBJECT: CONTRACTS**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to authorize the City Manager to execute the following list of contracts; and

To authorize the City Manager to make changes to the following list of contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

<b>Contractor</b>	<b>Contract Description</b>	<b>Department</b>	<b>CT Amount</b>
Dixie Lawn Service	Contract Amendment-extend Contract expiration date	PW	-
L H Blvd, LLC	Permanent Agreement	PW	-
Don Galloway Homes	Permanent Agreement	PW	-
Duke Leadership Training Associates	Facilitation of Dept. Head Training	TS	\$ 2,500.00
David Padullo	Basketball Official	P&R	\$ 600.00
Jennifer Strobel	Water Safety Instructor	P&R	\$ 700.00
Linda Taylor	Tennis Instructor	P&R	\$ 720.00
Denise Gray	Basketball Official	P&R	\$ 600.00
L. Roberts Home Repairs	Change Order #2 Contingency	Housing	\$11,405.00
Blue Mountain Catering	Catering Employee Recognition Lunch	HR	\$ 4,916.25
Cline Designs	Amendment to Rolling Hills Contract	CMO	\$ 6,000.00
Howard Liverman & Travis Thornton	Lease 107 E. Chapel Hill St	PFM	\$(5,400.00)
Community School for Children	Lease of 808 Foster St	PFM	\$(132,421.00)
Christopher Smith	Official	P&R	\$ 3,400.00
Michael Wick	Soccer Official	P&R	\$ 2,000.00
Anthony Pough	Official	P&R	\$ 800.00
Marti Smith	Official	P&R	\$ 800.00
Kelvin Haley	Official	P&R	\$ 1,000.00
John Burris	Official	P&R	\$ 1,000.00
Krista Phillips	Water Safety Instructor	P&R	\$ 900.00

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Monica Perry	Aerobics	P&R	\$ 1,560.00
Vivian McEachern	Computer Instruction	P&R	\$ 1,440.00
Nisha Watson	Athletic Instructor	P&R	\$ 450.00
Lynn Dunbar	Official	P&R	\$ 800.00
Vaughn Reynolds	Official	P&R	\$ 1,500.00
Krista Reynolds	Official	P&R	\$ 1,000.00
Rachel Wilson	Computer Enrichment Planner	P&R	\$ 1,920.00
Larry Parrish	Basketball camp director	P&R	\$ 3,000.00
Kimberly Bailey	Official	P&R	\$ 2,500.00
Van Clark Jr	Official	P&R	\$ 1,600.00
Bonnie Daye	Official	P&R	\$ 1,600.00
Joseph Daye	Official	P&R	\$ 1,600.00
Allen Clayton	Official	P&R	\$ 1,600.00
Dennis Roberts	Official	P&R	\$ 1,600.00
Roy Williams	Official	P&R	\$ 1,600.00
Ben Weber	Water Safety Instructor	P&R	\$ 700.00
Jesse Brown	Official	P&R	\$ 1,200.00
Struat Krall	Official	P&R	\$ 2,500.00
Mam John Richards	Official	P&R	\$ 3,000.00
Timothy Jackson	Official	P&R	\$ 2,500.00
Darryl Hamilton	Tennis Instructor	P&R	\$ 300.00
Joseph Polcaro	Official	P&R	\$ 3,500.00
Kerry Richardson	Official	P&R	\$ 3,000.00
Manford Bowden	Official	P&R	\$ 1,200.00
Dick Sloane	Band for Earth Day	P&R	\$ 300.00
Roderick Allen	Band for Earth Day	P&R	\$ 280.00
Mohammed Najih	Official	P&R	\$ 1,200.00
Charlene Morgan	Computer Instruction for Seniors	P&R	\$ 500.00
Gary Thompson	Official	P&R	\$ 1,020.00

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**SUBJECT: OFFICE OF STATE PERSONNEL, HUMAN RESOURCE DEVELOPMENT**

To authorize the City Manager to enter into a memorandum of agreement with the Office of State Personnel, Human Resource Development group to provide facilitation and consulting services at a cost not to exceed \$7,000; and

To authorize the City Manager to make changes to the memorandum of agreement before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the memorandum of agreement.

Mayor Bell disclosed his wife works for the Office of State Personnel and is not directly involved with this item.

Several Council Members expressed concern about this item relative to the core values.

Assistant City Manager Sharon Laisure made comments about the task teams and its Durham First initiative. She noted there is no consensus among City employees on what are the values of the organization.

Council Member Stith noted the administration should move forward with the pay for performance plan.

**MOTION** by Council Member Clement seconded by Council Member Cole-McFadden to refer this item to February 20, 2003 City Council Work Session for further discussion was approved at 8:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[PUBLIC HEARINGS]**

**SUBJECT: ZONING TEXT AMENDMENT – REPEAL OF THE DOWNTOWN TRANSITION OVERLAY DISTRICT AND MODIFICATIONS TO THE DOWNTOWN DESIGN OVERLAY DISTRICT (TC 03-02)**

To hold a public hearing to receive public comment on Text Amendment TC03-02 (Repeal of the Downtown Transition Overlay District and modifications to the Downtown Design Overlay District); and

To adopt ordinance TC03-02 repealing Section 5.2 and amending Sections 5.4 of the Zoning Ordinance.

Planning Department Recommends Approval.  
Zoning Committee Recommends Approval (6-0)

Frank Duke, City/County Planning Director, briefed Council on the staff report.

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Mayor Bell opened the public hearing and no one spoke in support or opposition to this text amendment. The Mayor declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Edwards to receive public comment on Text Amendment TC03-02 (Repeal of the Downtown Transition Overlay District and modifications to the Downtown Design Overlay District); and

To adopt ordinance TC03-02 repealing Section 5.2 and amending Sections 5.4 of the Zoning Ordinance was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12759**

**SUBJECT: REZONING MATTER CASE P02-20 (SOUTHPOINT CENTER) -  
PIEDMONT CAPITAL - EAST SIDE OF FAYETTEVILLE ROAD  
BETWEEN CROOKED CREEK PARKWAY AND NC 54**

To receive public comment on rezoning Case P02-20 (Piedmont Capital – Southpoint Center); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-20 out of R-20 and RM-12; F/J-B and MTC and placing same in and establishing same as NC(D); F/J-B and MTC.

Zoning Committee Recommendation and Vote: Approval - (6-0)  
Planning Department Recommendation: Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report. He gave an overview of committed elements, noted proposal is consistent with NC 54/I-40 plan and Zoning Committee and staff recommended approval.

Mayor Bell opened the public hearing.

**Proponent**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this rezoning. He noted Crooked Creek Neighborhood Association supports this rezoning and urged Council to approve this request.

No one spoke in opposition to this rezoning matter.

Mayor Pro Tempore Cheek disclosed that his partner in his law firm does business work for Haden Stanziale but he does not participate, nor has any financial interest in this matter.

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Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comment on rezoning Case P02-20 (Piedmont Capital – Southpoint Center); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-20 out of R-20 and RM-12; F/J-B and MTC and placing same in and establishing same as NC(D); F/J-B and MTC was approved at 8:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: REZONING MATTER CASE P02-70 (ROCKY CREEK TOWNHOUSE SUBDIVISION) – ROCKY CREEK, LLC – NORTH SIDE OF INFINITY ROAD, EAST OF ROXBORO ROAD**

To receive public comment on rezoning Case P02-70 (Rocky Creek Townhouse Subdivision); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-70 out of R-20 and placing same in and establishing same as PDR-3.28.

Zoning Committee Recommendation and Vote: Approval - (4-2)  
Planning Department Recommendation: Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report. He gave an overview of the committed elements, noted proposal is consistent with Lebanon Township plan and that staff recommends approval as well as the Zoning Committee. He noted two members of the Zoning Committee who opposed the project cited traffic concerns.

Mayor Bell opened the public hearing.

### **Proponents**

Kenneth Wrenn, representing the applicant, spoke in support of this rezoning. He made comments about the proposed use and noted the traffic generated from this senior homeownership community will be significantly less than associated with the traditional-mixed neighborhoods. Also, he noted a left turn lane will be constructed at the entrance of Infinity Road that will allow traffic to flow normally. He urged Council to consider this rezoning.

LaVonnia Allison, of 1315 McLaurin Avenue, noted the proposal is an excellent opportunity for senior citizens.

No one spoke in opposition to this rezoning.

The Mayor declared the public hearing closed.



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Council Member Cole-McFadden asked the developer what kind of traffic improvements will be made and asked staff if there are plans to install a traffic signal in the River Forest area on Infinity Road.

Kenneth Wrenn, representing the applicant, made comments regarding a turning lane into Rocky Creek.

Planning Director Frank Duke noted he would pass concern for a traffic signal to the Transportation Department.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comment on rezoning Case P02-70 (Rocky Creek Townhouse Subdivision); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-70 out of R-20 and placing same in and establishing same as PDR-3.28 was approved at 8:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: REZONING MATTER CASE P02-31 (LEXINGTON PARK) – DIAKO CONSTRUCTION, INC. – WEST SIDE OF FAYETTEVILLE ROAD, NORTH OF SCOTT KING ROAD**

To receive public comment on rezoning Case P02-31 (Lexington Park);

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-31 out of RD and placing same in and establishing same as PDR-2.41.

Zoning Committee Recommendation and Vote: Denial - (7-0)

Planning Department Recommendation: Approval

[Valid Protest Petition filed against this rezoning]

Frank Duke, City/County Planning Director, briefed Council on the staff report highlighting committed elements [number of and general location of access points, minimum lot size 8,000 square feet, maximum number of lots (27), noted staff recommends approval based on consistency with the NC 54/I-40 Corridor Plan; however, there was a concern with the density gradient. He noted the Zoning Committee recommended denial based on school capacity; compatibility with surrounding area and in March 2002, County Commissioners denied rezoning determining the density proposed was too high for the area.

Council held discussion on the density grading provision being met and traffic estimates predating the opening of Southpoint.

Mayor Bell opened the public hearing.

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### **Proponents**

Ron Horvath, representing the applicant, spoke in support of this rezoning commenting on the density [2.41 units per acre]. He noted the applicant is committing to the construction of a left turn lane which will be a committed element, providing 30% tree save area, a 20-foot right of way dedication that also will be a committed element on the development plan. Mr. Horvath stated proposal is consistent with the NC 54/I-40, 2020 Comprehensive; Thoroughfare Plans and will be adding 10 students to the school system. Also, he noted he met with the opponents prior to the meeting who expressed density concerns. He stated the applicant would be willing to drop down to two units per acre but the opponents wanted one unit. He noted the applicant would be making road improvements, providing buffer for neighbors and urged Council to approve this rezoning.

Grant Leonard, of 303 Intern Way, spoke in support of this rezoning case due to creation of a buffer and reduction of lots.

### **Opponents**

Stephen Thomson, of 8321 Fayetteville Road, spoke in opposition to this rezoning matter. He noted proposal will impact overcrowding of schools and density will destroy rural character of the area. He urged Council to leave the zoning where it is and to deny this rezoning request.

LaVonnia Allison, of 1315 McLaurin Avenue, spoke in opposition to this request noting there is a lack of cooperation between City, County and School system concerning the rezoning matter. She urged Council to deny this rezoning in terms of the quality of living.

### **Rebuttal**

Ron Horvath, representing the applicant, commented on the school capacity noting the proposal would be adding five students to the entire school system across all three levels of grades. He noted the Board of County Commissioners did offer two units per acre and his client did not take the offer and I did not represent him at the time. Mr. Horvath advised the Planning Director that the applicant would be willing to commit to the lot layout of the lots along with buffer shown or density near Fayetteville Road.

Mayor Bell declared the public hearing closed.

Council Member Cole-McFadden expressed concern about the traffic impacts.

Mayor Pro Tempore Cheek asked the applicant what changes have been made in the plan from the one submitted to Board of County Commissioners.

Ron Horvath, representing the applicant, made comments regarding the arrangement of the buffering, lot count has dropped, and configuration of density.

Mayor Pro Tempore Cheek made comments noting that he did not see the tree save coverage and open space as committed elements on the plan.

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Planning Director Frank Duke noted Mr. Horvath did indicate that he would make the tree save and the buffering in the lot layout committed elements in his closing remarks.

Ron Horvath noted he is willing to put these issues on the development plan as committed elements before final stamping.

Mayor Pro Tempore Cheek asked the applicant if he would be willing to make two units per acre a committed element.

Ron Horvath noted the offer of 22 lots vs. 27 was made to the neighbors and it still stands if acceptable to Council.

Council Member Edwards noted she could not support this rezoning due traffic impact and infrastructure issues.

Planning Director Frank Duke asked the applicant if two units per acre would be a committed element.

Ron Horvath, representing the applicant, replied yes.

Due to a reduction greater than 10% in density, Frank Duke, City/County Planning Director, informed Council that this a significant change [2 units per acre] and will have to be referred back to the Zoning Committee.

Mayor Bell made comments noting this is the wrong plan for this area expressing density concerns.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this rezoning matter back to the Zoning Committee to consider the reduction of 2 units per acre was approved at 9:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: FY 2003-2004 CONSOLIDATED ACTION PLAN "NEEDS" PUBLIC HEARING**

To hold the FY 2003-2004 Consolidated Action Plan "Needs" public hearing on February 17, 2003 and receive citizen comments.

Housing Director Charlene Montford made comments regarding the Consolidated Action Plan.

Mayor Bell opened the public hearing.

Lorisa Seibel, representing Campaign for Decent Housing, provided Council with a handout urging Council to: 1) fund more City Housing Inspectors, Bilingual and Support staff in the regular budget rather than in the CDBG allocation; 2) support housing education and counseling

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programs; 3) fund non-profit housing groups to build, renovate and preserve affordable homes; 4) set aside \$50,000 for materials for volunteer repair programs; and 5) initiate rental rehab and rental assistance programs.

Walt Havener, representing Housing for New Hope, requested bridge funding to carry them until HUD renewal funding resumes in March 2004. Also, he requested \$60,000 for staff positions of substance abuse counselor/case manager, resident and relief managers.

Samuel Whitted, of 1503 Lakeland Street #B, spoke in support of funding for Phoenix House who have helped him to become a productive citizen again.

Terry Allebaugh, representing Housing for New Hope, urged Council to support bridge funding for Phoenix House until next year.

John Compton, representing Historic Preservation Society of Durham, spoke in support of proposal submitted by Campaign for Decent Housing and Historic Preservation Society rehab projects in the Golden Belt area and Historic district.

LaVonia Allison, of 1315 McLaurin Avenue, spoke in support of funding for homeownership.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to receive citizens' comments on the FY 2003-2004 Consolidated Action Plan was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

At this time during the meeting, Mayor Bell announced the following: City Council Meeting agendas will be available at the Reference Desk of Durham Public Library Main Branch; 2) Special City Council Meeting and Public Forum on proposed changes to the M/WBE ordinance scheduled for Thursday, February 20, 2003 have been cancelled; and 3) provided update on ice storm.

## **[CONSENT AGENDA ]**

### **SUBJECT: CABLE TV ADVISORY BOARD - APPOINTMENTS**

To appoint citizens to fill three (3) vacancies on the Cable TV Advisory Board—terms will expire October 31, 2003.

City Clerk Gray noted by ballot the City Council re-appointed James Edward Vaughan [6 votes], appointed Warren L. Herndon [6 votes] to the Cable TV Advisory Board—terms will expire October 31, 2003. She noted that Thomas Beckett, Henry Williams Pye and Kevin C. Young each received three votes.

**MOTION** by Council Member Clement seconded by Council Cole-McFadden to appoint Kevin C. Young to the Cable TV Advisory Board—term will expire October 31, 2003 was approved at

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9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:39 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk